

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
VS.)	CR NO. 03-10383-RGS
)	
JULIO FRANCO)	
JOSE RAFAEL SANTIAGO and)	
DOMINGO VEGA)	
Defendants.)	

MOTION FOR NON-EVIDENTIARY HEARING

The United States of America, by its attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, respectfully submits this Motion requesting that the evidentiary hearing currently set for October 5, 2004 as to the one remaining issue in the pending motions to suppress -the jurisdictional issue set forth in defendant Jose Rafael Santiago's Motion to Suppress- be non-evidentiary. The reason is that the Drug Enforcement Administration ("DEA") has obtained and produced the Deputization Authorization form for Massachusetts State Trooper Kevin P. O'Neil, which is attached¹. Therefore, there is no need for testimony as to whether deputized Task Force Agent O'Neil had jurisdiction to assist the stop of the Volkswagen driven by defendant Santiago in Rhode Island.

¹ The personal information such as Social Security number and address have been redacted.

Moreover, the government and defendants have stipulated to extensive facts for the present motions to suppress.

However, should the Court require live testimony for the hearing, the government intends to produce DEA Group Supervisor Robert H. Robertson, Jr. Special Agent Mark Tully will be out of town during the hearing and his supervisor Robert Robertson will be more qualified as a supervisor to answer deputization and jurisdictional issues. Supervisor Robertson also participated in the traffic stop at issue and the T-III as well.

Whereby, the government respectfully requests that this Motion be granted.

Dated: October 1, 2004

Respectfully submitted,
MICHAEL J. SULLIVAN
United States Attorney
By:

/s/ Cynthia W. Lie
Cynthia W. Lie
Assistant U.S. Attorney

Certificate of Service

I Cynthia Lie hereby certify that I caused to be served a copy of the above document by fax and first class mail to the following attorneys of record:

Charles A. Clifford
Joseph J. Machera

/s/ Cynthia W. Lie
Cynthia W. Lie